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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

THE CITY OF SEATTLE, a Washington
municipal corporation,

Plaintiff,

vs.

35th NORTH, INC. a Washington corporation;
and JANE AND JOHN DOES 1-20.

Defendants.

No.

COMPLAINT FOR DAMAGES
AND ENFORCEMENT PENALTIES

Plaintiff the City of Seattle (“City”) alleges as follows:

I. PARTIES

1. The City is a Washington municipal corporation of the first class organized and existing under the laws of the State of Washington and doing business in Seattle, King County, Washington.

2. Defendant 35th North, Inc. (“35th North”) is a Washington corporation existing under the laws of the State of Washington and doing business in Seattle, King County, Washington.

1 10. Three winners were to be chosen. The three winners were promised an additional
2 \$1,000 cash to build another spot or keep adding to theirs along with a visit from Nike SB Pros and
3 Transworld staff for an article in the magazine and a video on the Transworld website.

4 11. Upon information and belief, defendant 35th North was the only Seattle skate shop
5 asked to submit a video.

6 12. On or about June 20, 2017, 35th North was named one of the three winners of the
7 Contest.

8 13. The video submitted by 35th North showed Jane and John Does 1-20 constructing a
9 concrete, bowl-shaped structure on “Duck Island,” a small island located in Green Lake. Green Lake
10 is both the name of a waterbody and a public park located in Seattle, Washington, which is owned by
11 the City of Seattle and operated by Seattle Parks and Recreation. **Exhibit A** is an image from the
12 submission video showing the Skatepark illegally built by Defendants on Duck Island.

13 14. During the construction of the Skatepark, Defendants cut down one or more trees
14 and destroyed vegetation.

15 15. In the summer of 2017 the City learned that the Skatepark had been built on Duck
16 Island.

17 16. The City did not give permission for any construction, of the Skatepark or
18 otherwise, on Duck Island.

19 17. The City incurred significant costs to remove the Skatepark. The City will incur
20 additional costs to restore the island for the wildlife.

21 18. Upon information and belief, 35th North was involved in, authorized, funded, ratified,
22 and/or induced the construction of the Skatepark.

1 19. None of Defendants sought permission from any City department to build the
2 Skatepark.

3 20. The construction process damaged the island by damaging trees, vegetation, and the
4 underlying land.

5 **IV. FIRST CAUSE OF ACTION: DAMAGE TO LAND (RCW 4.24.630)**

6 21. The City incorporates all of the allegations in paragraphs 1-20.

7 22. Defendants damaged Duck Island by damaging vegetation and leaving debris on the
8 island.

9 23. Defendants knew or should have known they were not authorized to build the
10 Skatepark on Duck Island.

11 24. In addition to the value of the trees, the City is also entitled to (1) damages to the land
12 resulting from the cutting, (2) restoration costs for repairing the damage to the land, and (3) reasonable
13 costs including investigation costs, attorney's fees and other litigation-related costs. Defendants are
14 liable for treble the City's damages.

15 **V. SECOND CAUSE OF ACTION: TRESPASS**

16 25. The City incorporates all of the allegations in paragraphs 1-20.

17 26. Defendants trespassed upon the City's land and caused damage to the City's trees and
18 land.

19 **VI. THIRD CAUSE OF ACTION: NEGLIGENCE**

20 27. The City incorporates all of the allegations in paragraphs 1-20

21 28. Defendants knew or should have known they lacked permission to build a Skatepark
22 on land they did not own.

1 it is designated by Washington Department of Fish and Wildlife as a priority habitat and species
2 area.

3 40. Duck Island is also located within the City of Seattle's Shoreline District and
4 therefore is subject to the Seattle Shoreline Master Program Regulations under SMC Chapter
5 23.60A.

6 41. Defendants undertook development on Duck Island by building the Skatepark
7 without permits or authorization from the City.

8 42. Defendants disturbed and removed vegetation, cut and/or damaged trees, including
9 one or more trees over six inches in caliper, and building a Skatepark in a priority habitat without
10 a permit or authorization from the City.

11 43. Defendants encouraged, commanded, induced or otherwise procured others to
12 disturb or remove vegetation; cut and/or damage trees, including one or more trees over six inches
13 in caliper; and build a skatepark on Duck Island.

14 44. Violations of the ECA Code Chapter 25.09 as incorporated in the Shoreline Code
15 Chapter 23.60A subject Defendants to a cumulative civil penalty of \$500 per day for each violation
16 from the time the violation occurs or begins until compliance is achieved.

17 45. Defendants are subject to an additional civil penalty of \$5,000 for removing,
18 clearing or taking any action detrimental to a tree over six inches in caliper.

19 **X. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for the following relief,

21 1. A principal judgment against Defendants, jointly and severally, including treble
22 damages on the City's timber trespass claim or in such other amount as may be proven at trial; treble
23 damages on the City's damage to land claim under 4324.630; damages resulting from Defendant's

1 negligence and trespass; penalties pursuant to SMC 25.09.460; and land restoration costs and an
2 additional civil penalty of \$5,000 per tree for any tree over six inches in caliper.

3 2. Enforcement costs, including but not limited to administrative expenses and fees;
4 the cost of any land surveys related to enforcement; the costs of any abatement and restoration of
5 park property after abatement; recording fees; and litigation costs and statutory attorneys' fees
6 pursuant to SMC 18.30.050; plus reasonable attorneys' fees, investigative costs and other
7 litigation-related costs pursuant to RCW 4.24.630;

8 3. For pre-judgment interest from the date of this complaint pursuant to RCW 4.56.110
9 and otherwise;

10 4. For statutory attorney's fees and legal costs incurred in connection with this matter
11 pursuant to RCW 4.84.010, 4.84.080 and otherwise;

12 5. For post-judgment interest on the judgment, at a rate to be determined at the time
13 of entry, until the judgment is satisfied in full pursuant to RCW 4.56.110; and

14 6. For such other and additional relief as the Court may deem just and equitable.

15 DATED this 1st day of November, 2017.

16 PETER S. HOLMES
17 Seattle City Attorney

18 By: *s/ Joseph G. Groshong*
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EXHIBIT A

